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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Report of the Select Committee on the Bill further to amend the Central Sales Tax Act, 1956 was presented to Lok Sabha on the 17th August, 1972:—

COMPOSITION OF THE COMMITTEE

Dr. Henry Austin—*Chairman*

MEMBERS

2. Shri Dharmarao Sharanappa Afzalpurkar
3. Shri Chhatrapati Ambesh
4. Shri R. V. Bade
5. Shri Bashweshwar Nath Bhargava
6. Shri Somnath Chatterjee
7. Shri Tridib Chaudhuri
8. Shri Y. B. Chavan
9. Shri Shivaji Rao S. Deshmukh
10. Shri Tarun Gogoi
- *11. Shri N. E. Horo

*Fell vacant w.e.f. the 21st April, 1972 on the election of Shri N. E. Horo having been declared void by the Patna High Court.

12. Shri D. P. Jadeja
13. Shri Sat Pal Kapur
14. Shri B. R. Kavade
15. Shri E. R. Krishnan
16. Shri Maharaj Singh
17. Shri Prasannbhai Mehta
18. Shri D. K. Panda
19. Shri H. M. Patel
20. Shri P. Antony Reddi
21. Shri Devendra Satpathy
22. Shri P. M. Saveed
23. Shri M. R. Sharma
24. Dr. Shankar Dayal Sharma
25. Shri Shiv Kamar Shastri
- **26. Shri Muhammed Sheriff
27. Shri B. R. Shukla
28. Shri Sant Bux Singh
29. Shri R. P. Yadav
30. Shri K. R. Ganesh

LEGISLATIVE COUNSEL

Shri R. V. S. Peri-Sastri—*Additional Legislative Counsel.*

REPRESENTATIVES OF THE MINISTRY OF FINANCE

(Department of Revenue and Insurance)

1. Shri B. D. Pande—*Secretary*
2. Shri K. Narasimhan—*Member (Tariff) Central Board of Excise and Customs*
3. Shri M. S. Sivaramakrishna—*Director (Sales Tax)*
4. Shri O. P. Mehra—*Under Secretary*

SECRETARIAT

Shri P. K. Patnaik—*Joint Secretary.*

Shri H. G. Paranjpe—*Deputy Secretary.*

**Appointed on the 19th April, 1972 vice Shri M. Muhammed Ismail died.

REPORT OF THE SELECT COMMITTEE

1. The Chairman of the Select Committee to which the *Bill further to amend the Central Sales Tax Act, 1958, was referred, having been authorised to submit the report on their behalf, present their Report with the Bill, as amended by the Committee, annexed thereto.

2. The Bill was introduced in Lok Sabha on the 5th August, 1971. The motion for reference of the Bill to a Select Committee was moved by Shri K. R. Ganesh, Minister of State in the Ministry of Finance on the 12th August, 1971 and was adopted on the same day.

3. The Committee held 34 sittings in all.

4. The first sitting of the Committee was held on the 16th August, 1971 to draw up their programme of work. The Committee at this sitting decided to take oral evidence of the interested parties bodies, chambers of commerce and industry, etc., on the provisions of the Bill and to issue a press communique inviting memoranda from them by the 15th September, 1971. The Committee also decided to address a circular letter to all State Governments, Bar Council of India, Supreme Court, High Courts, Bar Associations, Chambers of Commerce and Industry etc. inviting their views on the provisions of the Bill.

At this sitting, the Committee further decided to hold their sittings outside Delhi to hear oral evidence of interested parties.

5. 125 Memoranda on the Bill were received by the Committee from various State Governments, associations, organisations, chambers of commerce and industry, etc.

6. The Committee heard evidence given by the representatives of various State Governments, associations, organisations, chambers of commerce and industry, individuals, etc.

7. The Report of the Committee was to be presented by the "last day of the first week of the next session" i.e., Third Session of Fifth Lok Sabha. The Committee were granted extension of time for presentation of their report twice, the first time on the 18th November, 1971 upto the "last day of the first week of the Budget Session of 1972" i.e., Fourth Session of Fifth Lok Sabha and subsequently on the 16th March, 1972 upto the "last day of the next session of Lok Sabha" i.e., Fifth Session.

8. The Committee have decided that the evidence given before them might be printed and laid on the Table of the House.

9. The Committee considered the Bill clause-by-clause at their sitting held on the 26th July, 1972.

*Published in the Gazette of India, Extraordinary, Part II, Section 2, dated the 5th August, 1971.

10. The Committee considered and adopted the Report on the 10th August, 1972.

11. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

12. *Clause 2.*—Sub-clause (b) of this clause seeks to substitute a new sub-section for existing sub-section (2) of section 6 relating to exemption from tax on subsequent sales during the same movement of goods. Under the new sub-section such exemption is subject *inter alia* to the condition that the dealer effecting the sale furnishes to the prescribed authority in the prescribed manner and within the prescribed time certain certificates/declarations containing the prescribed particulars. The Committee feel that such certificates/declarations may also be permitted to be furnished beyond the prescribed time for sufficient cause. The clause has been amended accordingly.

13. *Clause 3.*—This clause seeks to insert a new section 6A in the principal Act for the purpose of providing that the burden of proving that any movement of goods from one State to another was occasioned otherwise than by way of sale shall be on the dealer making such claim. For the purpose of discharging this burden, the dealer may produce before the prescribed authority within the prescribed time a declaration from the person in the other State to whom the goods have been sent along with evidence of such despatch of goods. The Committee feel that the requisite declarations should be filed before the assessing authority. The Committee also feel that such declarations may, for sufficient cause, be allowed to be filed within such further time beyond the prescribed time as the assessing authority may permit.

Sub-section (2) of the proposed Section 6A stipulates that if the prescribed authority is satisfied after such enquiry as he may deem necessary that the particulars contained in the declaration are true, he shall make an order to that effect and thereupon the movement of goods to which the declaration relates shall be deemed for the purposes of this Act to have been occasioned otherwise than as a result of sale. The Committee feel that it should be provided in the section itself that the assessing authority shall make an order on the genuineness of a declaration and that such an order could be passed at the time of, or at any time before, the assessment of the tax payable by the dealer.

Accordingly, the clause has been amended to provide for the aforesaid matters.

14. *Clause 4.*—This clause seeks to amend section 7 of the principal Act to empower the registering authority to demand, in appropriate cases, security or additional security upto an amount or amounts not exceeding in the aggregate fifty thousand rupees for initial registration or for continuance of registration. The Committee feel that the amount of security or additional security payable by a dealer should be limited with reference to the tax payable by the dealer. The Committee therefore recommend that it may be provided that the security or, as the case may be, the aggregate of the security and the additional security shall not exceed the amount of tax payable on the estimated turnover of the dealer for the year in which such security/additional security is required to be furnished.

Sub-section (3C) sought to be inserted in section 7 of the principal Act provides that where a surety becomes insolvent or dies, the dealer shall within fifteen days of the occurrence of any such event inform the authority granting the certificate of registration of such event and shall within thirty days of such occurrence furnish a fresh surety bond or furnish in the prescribed manner other security for the amount of the bond.

Several trade bodies who gave evidence before the Committee stated that the period of fifteen days for giving intimation about the insolvency or death of a dealer was quite inadequate. It was stated that normally fifteen days were taken to perform the last rites of the deceased and, therefore, it would be difficult to intimate the fact of the death within this period to the appropriate authority.

In order to avoid any hardship in this respect, the Committee feel that the period of fifteen days should be increased to thirty days for the purposes of giving intimation by the dealer about the insolvency or death of the surety and the period in respect of furnishing a fresh surety bond should be raised from thirty days to ninety days.

The Committee feel that the orders regarding demand/forfeiture of security should be appealable. The Committee therefore recommend that specific provisions for the purpose should be made in section 7 of the principal Act. Accordingly, three new sub-sections (3H), (3I) and (3J) are proposed to be inserted in section 7 of the principal Act. The proposed sub-section (3H) would permit a dealer to file an appeal within thirty days of the service of an order regarding demand of security, forfeiture of security or on a dealer's application for refund of security.

Under the proposed sub-section (3H), the appellate authority is empowered to permit, for sufficient cause, a person to file an appeal even without furnishing the whole or any part of the security and also even after the expiry of the period of thirty days. The order passed by the appellate authority on such an appeal would be final under the proposed sub-section (3J).

The proposed sub-section (3I) deals with the incidental matters relating to framing of rules for prescribing the procedure to be followed in hearing such appeals and the fees payable for such appeals.

15. *Clause 5—[sub-clause (b)]*.—It seeks to amend sub-section (4) of section 8 of the principal Act for the purpose of empowering the State Government to prescribe the time within which the declaration referred to in that sub-section has to be furnished. As already explained in para 12 above, the Committee feel that the prescribed authority should have power to permit, for sufficient cause, the filing of any such declaration beyond the prescribed time. Sub-clause (b) has been amended accordingly.

16. *Clause 10—(i) Sub-clause (a)*.—Clause 10 seeks to amend section 13 of the principal Act which deals with the rule-making powers of the Central and State Governments. The Committee feel that in the interests of uniformity, the Central Government should be empowered to prescribe the time within which any certificate or declaration required to be furnished under the Act may be furnished. The sub-clause has been amended accordingly.

(ii) *Sub-clause (b).*—The Committees on Subordinate Legislation of the Houses of Parliament have approved a revised model clause for the laying, before Parliament, of rules, etc., made by the Central Government under Central Acts. The amendments made are with a view to bringing this sub-clause in conformity with the revised model clause approved by the above-mentioned Committees.

Other amendments made in this Clause are verbal and consequential in nature.

17. *Clause 11.*—(i) *Sub-clause (a)*—This sub-clause seeks to exclude, with retrospective effect, charcoal from the definition of “coal” contained in clause (i) of section 14 of the Principal Act. The Committee feel that the retrospective effect to the amendment through this sub-clause excluding charcoal from the scope of the term “coal” should not affect the position during the intervening period from the 23rd February, 1967 (the date of the Supreme Court judgment in Jaswant Singh Charan Singh’s case) and the coming into force of the amendment. It should be ensured that the Supreme Court judgment would prevail during the aforesaid period and “charcoal” will be treated as declared goods and no dealer would be required to pay tax on “charcoal” at a rate exceeding the one applicable to “coal” in the appropriate State. The sub-clause has been amended accordingly.

(ii) *Sub-clause (b)*—This sub-clause seeks to substitute clause (iv) of section 14 of the Principal Act by a new clause for the purpose of enumerating expressly the various sub-items falling under the item “Iron and Steel”. The sub-clause has been amended to make it clear that “iron and steel” include “iron scrap and cast iron scrap”.

18. *Clause 13.*—This clause seeks to insert a new Chapter V (containing new sections 16—18) in the principal Act to provide for collection of tax in the event of liquidation of a company. The proposed new section 17(3) has been amended with a view to remove any bar on the liquidator for parting with the assets and properties of a company in liquidation in compliance of an order of the court.

The proposed new section 18 has also been amended to substitute the expression “relevant previous year” by the expression “period for which the tax is due” as sales-tax is levied with reference to the turnover of a dealer for a specified period.

19. *Clause 14.*—This clause seeks to extend the principal Act to Kohima and Mokokchung Districts in the State of Nagaland.

In the course of their evidence before the Committee, the Government of Nagaland requested that the existing Central Sales Tax Act, 1956, might be extended to the Kohima and Mokokchung districts in the State of Nagaland at once and that the other amendments sought to be made through the Central Sales Tax (Amendment) Bill, 1971, might be enforced in the aforesaid districts from the date they were brought into force in the rest of Nagaland and in the other States. Accordingly, this clause has been amended. Under the clause as amended, the principal Act, as it stood on the 5th August, 1971 (the date of introduction of the present amending Bill in Lok Sabha) will extend to and come into force

in the Kohima and Mokokchung districts from the date the amending Bill is enacted into law and the amendments made to the principal Act by the Bill would come into force in those districts from the date they are brought into force by notification issued under sub-section (2) of section 1 of the amending Act.

20. *Clause 15.*—This clause seeks to make the necessary provision for validation of assessments, etc. made before the commencement of this amending Act notwithstanding anything contained in any judgment, decree or order of any court or other authority to the contrary. Amendment made in this clause is consequential to the amendment made in clause 1.

21. *Clause 1.*—This clause has been amended for the reasons set out in paragraph 19 above.

22. *Enacting Formula.*—Amendment made is of a formal nature.

23. The Select Committee recommend that the Bill, as amended, be passed.

NEW DELHI;
August 17, 1972.
Sravana 26, 1894 (Saka).

HENRY AUSTIN,
Chairman,
Select Committee.

MINUTES OF DISSENT

I

I am sorry that I am unable to agree with the majority report of the Select Committee on the following clauses:—

Clause 3.—New section 6A is regarding burden of proof in case of transfer of goods claimed otherwise than by way of sale. It lays down that the burden of proving that the movement of such goods was so occasioned shall be on the dealer. The argument advanced by a number of witnesses was that according to the Evidence Act the burden of proof should be always on the person who has special knowledge of the situation. If it is so then there is no necessity of this special provision.

In taxation cases the burden of proof would be always on the taxing authority. Therefore, I want to lay down a procedure of discharging this burden of proof and to add a provision as follows:—

“Provided the burden of proof shall be deemed to have been discharged if a declaration duly filled in according to section 6A is filed before the prescribed authority”.

Clause 4.—In the original draft Bill in the proposed new sub-section (3B) of section 7 of the principal Act there was a provision that in appropriate cases security or additional security up to an amount not exceeding in the aggregate fifty thousand rupees for initial registration or for continuance of registration can be demanded by the registering authority. The Committee is of the opinion that the amount of security or additional security payable by a dealer should be limited with reference to the tax payable by the dealer. But even with this I am not satisfied, because in many States there is no provision of taking security in the beginning who wants to start his business. Even if there is such a provision in the States the amount of security is very small. So in my opinion the amount of security which is required from a dealer should not be more than the amount of security prescribed by the law of the States in which he ordinarily resides or starts his business.

Clause 5.—In the original Bill the wording of the proviso proposed to be inserted at the end of sub-section (4) of section 8 of the principal Act was ‘provided that the declaration referred to in Clause (a) is furnished within the prescribed time’. I feel that instead of prescribed time it should be before the finalisation of assessment, because in taxing Acts one has to look merely at what is clearly said and nothing has to be read in and nothing is to be implied. Delay in filing declaration might be due to various causes and if the time is given up to the finalisation of assessment then there would be no hardship.

Clause 12.—I want to add the following proviso at the end of sub-clause (b) of clause 12:—

"Provided that this sub-section shall not in any way affect the operation of the provisions of the Central Sales Tax (Amendment) Act, 1969".

Clause 13.—Regarding this clause, my view, under the new section 18, the director of the private company should not be made personally liable unless there are reasons to believe that the non-recovery is attributable to any gross negligence, misfeasance or breach of duty on his part in relation to the affairs of the company.

NEW DELHI;
August 11, 1972.

R. V. BADE.

II

Clause 2.—Sub-clause (b) of Clause 2 seeks to substitute sub-section (2) of section 6 of the principal Act. Under first proviso to the proposed sub-section (2), the dealer is required to file the certificates/declarations within the time to be prescribed by the prescribed authority.

This proviso will cause harassment to the dealers. The Select Committee have received many representations from the various institutions and organisations of Commerce and Trade of the different States of the country. Most of these representation have indicated the difficulties for obtaining the required certificates or declarations. According to the evidence given before the Committee by various organisations, and institutions of trade and commerce, it is found that traders are experiencing hardship in obtaining the prescribed forms and if the time limit would be prescribed under the proposed Bill, it will cause further hardship resulting into litigations, etc.

I feel that there is considerable force in the contentions of the traders and their organisations. It is an open secret that stringent measures of laws do not improve the situation but give an opening to the corrupt practices for both the sides. The proposed amendment will result into harassment, litigations and unfair practices. Therefore it is suggested that the time limit should be prescribed specifically and it should not be earlier than the date of the assessment.

These remarks also apply to Clauses 3 and 5(b) of the Bill.

2. *Clause 3.*—Clause 3 of the Bill seeks to insert a new section 6A in the principal Act after section 6.

This new section is provided for putting the burden of proof etc., on the traders in case of transfer of goods claimed otherwise than by way of sale. The proposed amendment requires that where any dealer claims that he is not liable to be taxed under this Act in respect of any goods on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to another place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving that the movement of these goods was so occasioned shall be on that dealer and for this purpose he may produce before the prescribed authority within the prescribed time, a declaration, duly filled and signed by the principal officer of the other place of business, or his agent or principal, as the case may

be containing the prescribed particulars in the prescribed form obtained from the prescribed authority, alongwith the evidence of despatch of such goods.

According to the evidence given before the Committee by various Chambers of Commerce and other institutions and individuals, it is apprehended that this amendment will impose a new unnecessary burden on the trading community and will lead to corruption in the Tax Departments. Even without this provision the Sales Tax authorities have full powers to investigate to find out the nature of a particular transaction.

There is considerable substance in this contention. Apart from these apprehensions the general norms and principal of justice require that onus of proof should not be shifted to trading community in such cases. There are due powers for investigating the nature of transactions. It is also not untrue that some traders take undue advantage of the transactions between principal and branches. To prevent this unfair practice in the trade, the authorities are required to be more vigilant to use their powers to find out the nature of the transactions. Therefore it is proposed that insertion of new section 6A is not necessary.

NEW DELHI;
August 14, 1972.

PRASANNBHAI MEHTA.

THE CENTAL SALES TAX (AMENDMENT) BILL, 1971

(AS REPORTED BY THE SELECT COMMITTEE)

[Words side-lined or underlined indicate the amendments suggested by the Committee; asterisks indicate omissions.]

A Bill further to amend the Central Sales Tax Act, 1956.

BE it enacted by Parliament in the Twenty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Central Sales Tax (Amendment) Act, 1972. Short title and

(2) This section and sub-section (1) of section 14 shall come into force at once and the remaining provisions of this Act shall come into force commence-
on such date as the Central Government may, by notification in the Official Gazette, appoint. ment.

74 of 1956. 2. In section 6 of the Central Sales Tax Act, 1956 (hereinafter referred to as the principal Act),— Amendment of section 6.

(a) in sub-section (1), after the words "on all sales", the words "of goods other than electrical energy" shall be inserted;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Notwithstanding anything contained in sub-section (1) or sub-section (1A), where a sale of any goods in the course of inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods,—

(A) to the Government, or

(B) to a registered dealer other than the Government, if the goods are of the description referred to in sub-section (3) of section 8,

shall be exempt from tax under this Act:

Provided that no such subsequent sale shall be exempt from tax under this sub-section unless the dealer effecting the sale furnishes to the prescribed authority in the prescribed manner and within the prescribed time or within such further time as that authority may, for sufficient cause, permit,—

(a) a certificate duly filled and signed by the registered dealer from whom the goods were purchased containing the prescribed particulars in a prescribed form obtained from the prescribed authority; and

(b) if the subsequent sale is made—

(i) to a registered dealer, a declaration referred to in clause (a) of sub-section (4) of section 8, or

(ii) to the Government, not being a registered dealer, a certificate referred to in clause (b) of sub-section (4) of section 8:

Provided further that it shall not be necessary to furnish the declaration or the certificate referred to in clause (b) of the preceding proviso in respect of a subsequent sale of goods if,—

(a) the sale or purchase of such goods is, under the sales tax law of the appropriate State, exempt from tax generally or is subject to tax generally at a rate which is lower than three per cent. (whether called a tax or fee or by any other name); and

(b) the dealer effecting such subsequent sale proves to the satisfaction of the authority referred to in the preceding proviso that such sale is of the nature referred to in clause (A) or clause (B) of this sub-section”.

3. After section 6 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
6A.

'6A. (1) Where any dealer claims that he is not liable to pay tax under this Act, in respect of any goods, on the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer and for this purpose he may furnish to the assessing authority, within the prescribed time or within such further time as that authority may, for sufficient cause, permit, a declaration, duly filed and signed by the principal officer of the other place of business, or his agent or principal, as the case may be, containing the prescribed particulars in the prescribed form obtained from the prescribed authority, along with the evidence of despatch of such goods.

Burden
of proof,
etc.,
in case
of transfer
of goods
claimed
other-
wise
than by
way of
sale.

(2) If the assessing authority is satisfied after, making such inquiry as he may deem necessary that the particulars contained in the declaration furnished by a dealer under sub-section (1) are true, he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration relates shall be deemed for the purposes of this Act to have been occasioned otherwise than as a result of sale.

Explanation.—In this section, "assessing authority", in relation to a dealer, means the authority for the time being competent to assess the tax payable by the dealer under this Act.

4. In section 7 of the principal Act,—

Amend-
ment of
section 7.

(a) after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Where it appears necessary to the authority to whom an application is made under sub-section (1) or sub-section (2) so to do for the proper realisation of the tax payable under this Act or for the proper custody and use of the forms referred to in clause (a) of the first proviso to sub-section (2) of section 6 or sub-section (1) of section 6A or clause (a) of sub-section (4) of section 8, he may, by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of a certificate of registration a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be so specified, for all or any of the aforesaid purposes."

(b) in sub-section (3), after the words "rules made thereunder", the words, brackets, figure and letter "and the condition, if any, imposed under sub-section (2A), has been complied with" shall be inserted;

(c) after sub-section (3), the following sub-sections shall be inserted, namely:—

‘(3A) Where it appears necessary to the authority granting a certificate of registration under this section so to do for the proper realisation of tax payable under this Act or for the proper custody and use of the forms referred to in sub-section (2A), he may, at any time while such certificate is in force, by an order in writing and for reasons to be recorded therein, require the dealer, to whom the certificate has been granted, to furnish within such time as may be specified in the order and in the prescribed manner such security, or, if the dealer has already furnished any security in pursuance of an order under this sub-section or sub-section (2A), such additional security, as may be specified in the order, for all or any of the aforesaid purposes.

(3B) No dealer shall be required to furnish any security under sub-section (2A) or any security or additional security under sub-section (3A) by the authority referred to therein, unless he has been given an opportunity of being heard and the amount of security that may be required to be furnished by any dealer under either of the aforesaid sub-sections or the aggregate of the amount of such security and the amount of additional security that may be required to be furnished by any dealer under sub-section (3A), shall in no case exceed the tax payable, in accordance with the estimate of such authority, on the turnover of the dealer for the year in which such security or, as the case may be, additional security is required to be furnished.

(3C) Where the security furnished by a dealer under sub-section (2A) or sub-section (3A) is in the form of a surety bond and the surety becomes insolvent or dies, the dealer shall, within thirty days of the occurrence of any of the aforesaid events, inform the authority granting the certificate of registration and shall within ninety days of such occurrence furnish a fresh surety bond or furnish in the prescribed manner other security for the amount of the bond.

(3D) The authority granting the certificate of registration may by order and for good and sufficient cause forfeit the whole or any part of the security furnished by a dealer,—

(a) for realising any amount of tax or penalty payable by the dealer;

(b) if the dealer is found to have misused any of the forms referred to in sub-section (2A) or to have failed to keep them in proper custody:

Provided that no order shall be passed under this sub-section without giving the dealer an opportunity of being heard.

(3E) Where by reason of an order under sub-section (3D), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.

(3F) The authority issuing the forms referred to in sub-section (2A) may refuse to issue such forms to a dealer who has failed to comply with an order under that sub-section or sub-section (3A), or with the provisions of sub-section (3C) or sub-section (3E), until the dealer has complied with such order or such provisions, as the case may be.

(3G) The authority granting a certificate of registration may, on application by the dealer to whom it has been granted, order the refund of any amount or part thereof deposited by the dealer by way of security under this section, if it is not required for the purposes of this Act.

(3H) Any person aggrieved by an order passed under sub-section (2A), sub-section (3A), sub-section (3D) or sub-section (3G) may, within thirty days of the service of the order on him, but after furnishing the security, prefer, in such form and manner as may be prescribed, an appeal against such order to such authority (hereafter in this section referred to as the "appellate authority") as may be prescribed:

Provided that the appellate authority may, for sufficient cause, permit such person to present the appeal,—

(a) after the expiry of the said period of thirty days; or

(b) without furnishing the whole or any part of such security.

(3I) The procedure to be followed in hearing any appeal under sub-section (3H), and the fees payable in respect of such appeals shall be such as may be prescribed.

(3J) The order passed by the appellate authority in any appeal under sub-section (3H) shall be final;

(d) in sub-section (4), in clause (b), for the words "or has ceased to exist", the words, brackets, figures and letters "or has ceased to exist or has failed without sufficient cause, to comply with an order under sub-section (3A) or with the provisions of sub-section (3C) or sub-section (3E) or has failed to pay any tax or penalty payable under this Act" shall be substituted.

5. In section 8 of the principal Act,—

(a) for sub-section (2A), the following sub-section shall be substituted, namely:—

"(2A) Notwithstanding anything contained in sub-section (1A) of section 6 or sub-section (1) or sub-section (2) of this section, the tax payable under this Act by a dealer on his turnover in so far as the turnover or any part thereof relates to the sale of any goods, the sale or, as the case may be, the purchase of which is, under the sales tax law of the appropriate State,

Amend-
ment of
section 8.

exempt from tax generally or subject to tax generally at a rate which is lower than three per cent. (whether called a tax or fee or by any other name), shall be nil or, as the case may be, shall be calculated at the lower rate.

Explanation.—For the purposes of this sub-section a sale or purchase of any goods shall not be deemed to be exempt from tax generally under the sales tax law of the appropriate State if under that law the sale or purchase of such goods is exempt only in specified circumstances or under specified conditions or the tax is levied on the sale or purchase of such goods at specified stages or otherwise than with reference to the turnover of the goods.”;

(b) in sub-section (4), the following proviso shall be inserted at the end, namely:—

“Provided that the declaration referred to in clause (a) is furnished within the prescribed time or within such further time as that authority may, for sufficient cause, permit.”;

(c) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) Notwithstanding anything contained in this section, the State Government may, if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, and subject to such conditions as may be specified therein, direct,—

(a) that no tax under this Act shall be payable by any dealer having his place of business in the State in respect of the sales by him, in the course of inter-State trade or commerce, from any such place of business of any such goods or classes of goods as may be specified in the notification, or that the tax on such sales shall be calculated at such lower rates than those specified in sub-section (1) or sub-section (2) as may be mentioned in the notification;

(b) that in respect of all sales of goods or sales of such classes of goods as may be specified in the notification, which are made, in the course of inter-State trade or commerce, by any dealer having his place of business in the State or by any class of such dealers as may be specified in the notification to any person or to such class of persons as may be specified in the notification, no tax under this Act shall be payable or the tax on such sales shall be calculated at such lower rates than those specified in sub-section (1) or sub-section (2) as may be mentioned in the notification.”.

Amend-
ment of
section 9.

6. In section 9 of the principal Act, in sub-section (2), for the words “refunds, penalties,” the words “refunds, rebates, penalties,” shall be substituted.

7. After section 9A of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 9B.

"9B. The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored:

Rounding off of tax, etc.

Provided that nothing in this section shall apply for the purpose of collection by a dealer of any amount by way of tax under this Act in respect of any sale by him of goods in the course of inter-State trade or commerce."

8. In section 10 of the principal Act,—

Amendment of section 10.

(a) for clause (a), the following clauses shall be substituted, namely:—

"(a) furnishes a certificate or declaration under sub-section (2) of section 6 or sub-section (1) of section 6A or sub-section (4) of section 8, which he knows, or has reason to believe, to be false; or

(aa) fails to get himself registered as required by section 7, or fails to comply with an order under sub-section (3A) or with the requirements of sub-section (3C) or sub-section (3E), of that section;"

(b) in clause (d), for the word, brackets and letter "clause (b)", the words, brackets and letters "clause (b) or clause (c) or clause (d)" shall be substituted.

9. In section 10A of the principal Act, in sub-section (1), for the words "the tax which would have been levied under this Act in respect of the sale to him of the goods if the offence had not been committed", the words, brackets and figures "the tax which would have been levied under sub-section (2) of section 8 in respect of the sale to him of the goods, if the sale had been a sale falling within that sub-section" shall be substituted.

Amendment of section 10A.

10. In section 13 of the principal Act,—

Amendment of section 13.

(a) in sub-section (1),—

(i) in clause (b), after the words "the deductions which may be made", the words, brackets, letters and figures "under clause (c) of sub-section (1) of section 8A" shall be inserted;

(ii) in clause (d), the words "the State of origin of such form or certificate and the time within which any such certificate or declaration shall be produced or furnished" shall be inserted at the end;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Every rule made by the Central Government under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total

period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”;

(c) in sub-section (4),—

(i) after clause (a), the following clause shall be inserted, namely:—

“(aa) the manner in which security may be furnished under sub-section (2A) or sub-section (3A) or sub-section (3C) of section 7 and the manner in which and the time within which any deficiency may be made up under sub-section (3E) of that section;”;

(ii) for clause (e), the following clauses shall be substituted, namely:—

“(e) the authority from whom, the conditions subject to which and the fees subject to payment of which any form of certificate prescribed under clause (a) of the first proviso to sub-section (2) of section 6 or of declaration prescribed under sub-section (1) of section 6A or sub-section (4) of section 8 may be obtained, the manner in which such forms shall be kept in custody and records relating thereto maintained and the manner in which any such form may be used and any such certificate or declaration may be furnished;”;

“(ee) the form and manner in which, and the authority to whom, an appeal may be preferred under sub-section (3H) of section 7, the procedure to be followed in hearing such appeals and the fees payable in respect of such appeals;”;

(d) in sub-section (5), for the words “the State Government”, the words “the Central Government or, as the case may be, the State Government” shall be substituted.

Amend.
ment of
section
14.

11. In section 14 of the principal Act,—

(a) for clause (i), the following clause shall be, and shall be deemed always to have been, substituted, namely:—

“(i) coal, including coke in all its forms, but excluding charcoal;

Provided that during the period commencing on the 23rd day of February, 1967 and ending with the date of commencement of section 11 of the Central Sales Tax (Amendment) Act, 1972, this clause shall have effect subject to the modification that the words “but excluding charcoal” shall be omitted;”;

(b) for clause (iv), the following clause shall be substituted, namely:—

“(iv) iron and steel, that is to say,—

(i) pig iron and cast iron including ingot moulds bottom plates, iron scrap, cast iron scrap, runner scrap and iron skull scrap;

(ii) steel semis (ingots, slabs, blooms and billets of all qualities, shapes and sizes);

(iii) skelp bars, tin bars, sheet bars, hoe-bars and sleeper bars;

(iv) steel bars (rounds, rods, squares, flats, octagons and hexagons, plain and ribbed or twisted, coil form as well as straight lengths);

(v) steel structurals (angles, joists, channels, tees, sheet piling sections, Z sections or any other rolled sections);

(vi) sheets, hoops, strips and skelp, both black and galvanised, hot and cold rolled, plain and corrugated, in all qualities, in straight lengths and in coil form, as rolled and in rivetted condition;

(vii) plates both plain and chequered in all qualities;

(viii) discs, rings, forgings and steel castings;

(ix) tool, alloy and special steels of any of the above categories;

(x) steel melting scrap in all forms including steel skull, turnings and borings;

(xi) steel tubes, both welded and seamless, of all diameters and lengths, including tube fittings;

(xii) tin-plates, both hot dipped and electrolytic and tinfree plates;

(xiii) fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, bearing plates, crossing sleepers and pressed steel sleepers, rails—heavy and light crane rails;

(xiv) wheels, tyres, axles and wheel sets;

(xv) wire rods and wires—rolled, drawn, galvanised, aluminised, tinned or coated such as by copper;

(xvi) defectives, rejects, cuttings or end pieces of any of the above categories;”;

(c) for clause (v), the following clause shall be substituted, namely:—

“(v) jute, that is to say, the fibre extracted from plants belonging to the species *Corchorus capsularis* and *Corchorus olitorius* and the fibre known as mesta or bimli extracted from plants

of the species *Hibiscus cannabinus* and *Hibiscus sabdariffa*—*Var altissima* and the fibre known as *Sunn* or *Sunnhemp* extracted from plants of the species *Crotalaria juncea* whether baled or otherwise;”;

(d) for clause (vi), the following clause shall be substituted, namely:—

“(vi) Oilseeds, that is to say,—

- (i) Groundnut or Peanut (*Arachis hypogaea*);
- (ii) Sesamum or Til (*Sesamum orientale*);
- (iii) Cotton seed (*Gossypium* Spp.);
- (iv) Soyabean (*Glycine seja*);
- (v) Rapeseed and Mustard—
 - (1) Toria (*Brassica campestris var toria*);
 - (2) Rai (*Brassica juncea*);
 - (3) Jamba—Taramira (*Eruca Satiya*);
 - (4) Sarson, yellow and brown (*Brassica Compes-tris var sarson*);
 - (5) Banarsi Rai or True Mustard (*Brassica nigra*);
- (vi) Linseed (*Linum usitatissimum*);
- (vii) Castor (*Ricinus communis*);
- (viii) Coconut (i.e. Copra excluding tender coconuts) (*Cocos nucifera*);
- (ix) Sunflower (*Helianthus annus*);
- (x) Nigar seed (*Guizotia abyssinica*);
- (xi) Neem, vepa (*Azadirachta indica*);
- (xii) Mahua, illupai, Ippe (*Madhuca indica M. Latifolia*, *Bassia, Latifolia* and *Madhuca longifolia* syn. *M. Longifolia*);
- (xiii) Karanja, Pongam, Honga (*Pongamia pinnata* syn. *P. Glabra*);
- (xiv) Kusum (*Schleichera oleosa*, syn. *S. Trijuga*);
- (xv) Punna, Undi (*Calophyllum inophyllum*);
- (xvi) Kokum, (*Carcinia indica*);
- (xvii) Sal (*Shorea robusta*);
- (xviii) Tung (*Aleurites fordii* and *A. montana*);
- (xix) Red palm (*Elaeis guinensis*);
- (xx) Safflower (*Carthamus tinctorius*);”.

Amend-
ment of
section 15.

12. In section 15 of the principal Act, in clause (b),—

(a) for the words “the tax so levied”, the words “and tax has been paid under this Act in respect of the sale of such goods in the course of inter-State trade or commerce, the tax levied under such law” shall be, and shall be deemed to have been, substituted, with effect from the 1st day of October, 1958;

(b) for the words "shall be refunded to such person", the words "shall be reimbursed to the person making such sale in the course of inter-State trade or commerce" shall be substituted.

13. In the principal Act, after Chapter IV, the following Chapter shall be inserted, namely:—

Insertion
of new
Chapter V.

CHAPTER V

LIABILITY IN SPECIAL CASES

16. In this Chapter,—

Defini-
tions.

(a) "appropriate authority", in relation to a company, means the authority competent to assess tax on the company;

(b) "company" and "private company" have the meanings respectively assigned to them by clauses (i) and (iii) of sub-section (1) of section 3 of the Companies Act, 1956.

1 of 1956.

17. (1) Every person—

Com-
pany in
liqui-
dation.

(a) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or

(b) who has been appointed the receiver of any assets of a company,

(hereinafter referred to as the liquidator) shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the appropriate authority.

(2) The appropriate authority shall, after making such inquiry or calling for such information as it may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the appropriate authority would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

(3) The liquidator shall not part with any of the assets of the company or the properties in his hands until he has been notified by the appropriate authority under sub-section (2) and on being so notified, shall set aside an amount equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties in compliance with any order of a court or for the purpose of the payment of the tax payable by the company under this Act or for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the appropriate authority reasonable.

(4) If the liquidator fails to give the notice in accordance with sub-section (1) or fails to set aside the amount as required by, or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of sub-section (3), he shall be personally liable for the payment of the tax which the company would be liable to pay:

Provided that if the amount of any tax payable by the company is notified under sub-section (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

Liability
of direc-
tors of
private
com-
pany in
liqui-
dation.

18. Notwithstanding anything contained in the Companies Act, 1956, when any private company is wound up after the commencement of this Act, and any tax assessed on the company under this Act for any period, whether before or in the course of or after its liquidation, * * * cannot be recovered, then, every person who was a director of the private company at any time during the period for which the tax is due shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company. 1 of 1956.

Exten-
sion of
the
Act to
Kohima
and
Mokok-
chung
districts
in the
State of
Nagaland.

14. (1) The principal Act, as in force on the 5th day of August, 1971, is hereby extended to, and shall be in force in, the Kohima and Mokokchung districts in the State of Nagaland.

(2) The amendments made to the principal Act by this Act shall come into force in the Kohima and Mokokchung districts in the State of Nagaland on the date on which this sub-section comes into force.

Valida-
tion of
assess-
ments,
etc.

15. (1) Notwithstanding anything contained in any judgment, decree or order of any court or other authority to the contrary, any assessment, re-assessment, levy or collection of any tax made or purporting to have been made, any action or thing taken or done in relation to such assessment, re-assessment, levy or collection under the provisions of the principal Act before the commencement of this section shall be deemed to be as valid and effective as if such assessment, re-assessment, levy or collection or action or thing had been made, taken or done under the principal Act as amended by clause (a) of section 11 and clause (a) of section 12 of this Act, and accordingly—

(a) all acts, proceedings or things done or action taken by the State Government or by any other officer of the State Government

or by any other authority in connection with the assessment, re-assessment, levy or collection of such tax shall, for all purposes, be deemed to be and to have always been done or taken in accordance with law;

(b) no suit or other proceedings shall be maintained or continued in any court or before any authority for the refund of any such tax; and

(c) no court shall enforce any decree or order directing the refund of any such tax.

(2) For the removal of doubts, it is hereby declared that nothing in sub-section (1) shall be construed as preventing any person—

(a) from questioning in accordance with the provisions of the principal Act, as amended by this Act, the assessment, re-assessment, levy or collection of such tax for any period, or

(b) from claiming refund of any tax paid by him in excess of the amount due from him under the principal Act as amended by this Act.

S. L. SHAKDHER,
Secretary.

